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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

GRANT HOUSE, et al.,

Plaintiffs,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, et al.,

Defendants.

Case No. 4:20-cv-03919 CW

**STIPULATION AND [PROPOSED]
PROTECTIVE ORDER**

TYMIR OLIVER, on behalf of himself and
all others similarly situated,

Plaintiffs,

v.

NATIONAL COLLEGIATE
ATHLETIC ASSOCIATION, et al.,

Defendants.

Case No. 4:20-cv-04527 CW

At the case management conference in the above-captioned actions held on November 18, 2020, the Court directed that all documents produced in the actions captioned *In re NCAA Athletic Grant-in-Aid Cap Antitrust Litigation* (Case Nos. 4:14-md-2541-CW and 4:14-cv-2758-CW) (herein “*Alston*”) would be deemed to have been produced in discovery in these actions. The *Alston* documents deemed to have been produced in discovery in these actions include documents produced in *In re Student-Athlete Name and Likeness Licensing Litigation* (Case Nos. C 09-1967-CW and C 09-3329-CW) (herein “*O’Bannon*”).

Certain of the *Alston* documents produced in discovery were subject to multiple protective orders entered in the *Alston* action, as follows:

1. Protective Order entered on January 1, 2015 [14-md-2541; Dkt. 189] (including provisions concerning designation of documents as Confidential or as Highly Confidential/Attorney Only Information), attached herewith as Exhibit A;

2. Addendum to Protective Order entered on July 9, 2015 [14-md-2541; Dkt. 234] (including provisions concerning designation of documents as Highly Confidential NCAA Member Financial Data), attached herewith as Exhibit B;

3. Second Addendum to Protective Order entered on October 12, 2016 [14-md-2541; Dkt. 512] (including provisions concerning designation of documents as Conference Strictly Confidential and Network Strictly Confidential Information – Outside Counsel Only), attached herewith as Exhibit C;

4. Third Addendum to Protective Order entered on November 11, 2016 [14-md-2541; Dkt. 539 & 540] (including additional provisions concerning designation of documents as Network Strictly Confidential Information – Outside Counsel Only), attached herewith as Exhibit D;

5. Stipulation Regarding Second Addendum to Protective Order entered on September 4, 2018 [14-md-2541; Dkt. 1027] (concerning disclosures at trial of certain confidential information), attached herewith as Exhibit E; and

6. Fourth Addendum to Protective Order entered on September 15, 2019 [14-md-2541; Dkt. 1237 & 1238] (concerning certain billing records), attached herewith as Exhibit F.

1 These protective orders (collectively the “*Alston* Protective Orders”), with the modifications
2 reflected below, remain in effect with respect to the *Alston* documents deemed to have been
3 produced in these actions. Additional documents not produced in *Alston* may also be produced in
4 these actions pursuant to the provisions of the applicable *Alston* Protective Orders with the
5 exception of documents that may be eligible for the designations Conference Strictly Confidential
6 – Outside Litigation Counsel Only or Network Strictly Confidential – Outside Litigation Counsel
7 Only. In the event that documents or information that could be designated Conference Strictly
8 Confidential – Outside Litigation Counsel Only and/or Network Strictly Confidential – Outside
9 Litigation Counsel Only under the *Alston* Protective Orders is to be produced in this litigation in
10 the future, the parties will negotiate appropriate protections for those documents in a separate
11 stipulation or submit any disagreements to the Court for resolution. The parties will negotiate in
12 good faith to reach agreement on appropriate protections for any Conference Strictly Confidential
13 – Outside Litigation Counsel Only and/or Network Strictly Confidential – Outside Litigation
14 Counsel Only documents to be produced in this litigation and by February 1, 2021 either submit a
15 separate stipulation to the Court, or, if agreement cannot be reached, submit any disagreements for
16 resolution by the Court.

17 NOW, THEREFORE, through counsel, the parties to this action stipulate and move the
18 Court to order that:

19 1. Each of the *Alston* Protective Orders is deemed to have been and is hereby entered
20 in these actions with the following modifications and exceptions.

21 2. To the extent the *Alston* Protective Orders reference or name specific counsel of
22 record in that case, they are hereby amended to reference and apply to counsel in parallel positions
23 in these actions.

24 3. Paragraph 11 of Exhibit C is hereby deleted in its entirety and replaced with the
25 following: No disclosure of Conference Strictly Confidential – Outside Litigation Counsel Only
26 Information or Network Strictly Confidential – Outside Litigation Counsel Only Information to a
27 consultant or expert witness or their necessary support personnel shall occur until that person has
28 accurately completed and signed the certification annexed to this Second Addendum as Exhibit A,

1 and, in the case of Network Strictly Confidential – Outside Litigation Counsel Only Information,
2 a signed copy has been provided to the applicable Network(s) referenced in the document; and to
3 the extent there has been an objection under Paragraph 13 with respect to Network Strictly
4 Confidential – Outside Litigation Counsel Only Information, that objection is resolved as
5 discussed below. A separate certification annexed to this Second Addendum as Exhibit A shall not
6 be required for staff members working under the supervision of an individual signing the
7 certification annexed hereto as Exhibit A. An individual signing the certification annexed to this
8 Second Addendum as Exhibit A, however, shall accept full responsibility for taking measures to
9 ensure that staff members working under his or her supervision comply with the terms of this
10 Second Addendum. Neither the parties in this action nor their counsel shall seek information
11 regarding the identity of any consultant or expert witness or their necessary support personnel that
12 is provided to any Network(s) pursuant to this stipulation. If a party or its counsel learns the identity
13 of any consultant or expert witness or their necessary support personnel from any Network(s), that
14 party’s counsel shall inform the party who retained the consultant or expert witness of the
15 disclosure.

16 4. Paragraphs 12-15 of Exhibit C are amended as follows: any reference to
17 “Disclosing Party” is replaced with “applicable Network(s) referenced in the document” and any
18 reference to “parties” or “the party” includes, where applicable, the Network(s) referenced in the
19 document(s) at issue.

20 5. The modifications to Exhibit C reflected in paragraphs 3 and 4 above shall be
21 incorporated into Exhibit D only to the extent Exhibit D sets forth the rights and obligations with
22 respect to the NCAA, including documents for which the NCAA was the “Disclosing Party,” and
23 their media networks. These modifications reflected in paragraphs 3 and 4 above shall not be
24 incorporated into Exhibit D to the extent Exhibit D sets forth the rights and obligations with respect
25 to the Six Conferences, as defined in Exhibit D and who are not defendants in these actions,
26 including documents for which any of the Six Conferences were the “Disclosing Party,” and their
27 media networks.
28

1 6. Neither the parties in this action nor their counsel shall seek information regarding
2 the identity of any consultant or expert witness or their necessary support personnel that is provided
3 to any of the “Six Conferences” or “media networks” pursuant to Exhibit D. If a party or its counsel
4 learns the identity of any consultant or expert witness or their necessary support personnel from
5 any of the Six Conferences or media networks, that party’s counsel shall the party who retained
6 the consultant or expert witness of the disclosure.

7 7. Exhibits C, D and E will not apply to documents produced in these cases that were
8 not previously produced in *Alston*. To the extent documents and information that were not
9 produced in *Alston* will be produced in these cases and would be eligible for the designations
10 Conference Strictly Confidential – Outside Litigation Counsel Only or Network Strictly
11 Confidential – Outside Litigation Counsel Only under the *Alston* Protective Orders, the parties will
12 negotiate appropriate protections for those documents and by February 1, 2021 either submit a
13 separate stipulation to the Court, or, if agreement cannot be reached, submit any disagreements for
14 resolution by the Court.

15 8. If and to the extent any of the certifications annexed to the *Alston* Protective Orders
16 are provided in accordance with this Order, the party(ies) obtaining the certification will first
17 update the certification to reflect the case name(s) and docket number(s) of these cases. Any failure
18 to do so, however, shall not result in the document(s) and/or information losing their protection in
19 these cases pursuant to this Stipulation.

20 9. If and to the extent that documents were publicly filed as trial exhibits without being
21 placed under seal in *Alston* and have thus become publicly available, such documents shall not be
22 governed by the *Alston* Protective Orders.

23 10. By entering into this Stipulation, no party concedes or agrees, or otherwise
24 compromises its position, concerning whether any documents are (a) discoverable or admissible
25 in evidence, (b) properly deemed to be confidential and/or subject to enhanced confidentiality
26 treatment pursuant to the provisions of any of the *Alston* Protective Orders, or (c) properly
27 redacted, in light of the issues in this action.

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1 Dated: December 18, 2020

Respectfully submitted,

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PURSANT TO STIPULATION, IT IS SO ORDERED,

DATED: December ___, 2020

The Hon. Claudia Wilken
UNITED STATES DISTRICT JUDGE

E-FILER'S ATTESTATION

I, Steve W. Berman, am the ECF user whose identification and password are being used to file the Stipulation and [Proposed] Protective Order. In compliance with Local Rule 5-1(i)(3), I hereby attest that all signatories hereto concur in this filing.

/s/ Steve W. Berman